

## REMARKS

Claims 1-20 and 41-42 are pending in the present application. In the Office Action, the Examiner objected to the specification because of an informality in the section headed "Cross Related Application Data." As indicated above, Applicant has amended the specification solely to correct the informality. The Examiner has also objected to claims 6, 11, and 16 because of a number of informalities. As indicated above, Applicant has amended claims 6, 11, and 16 to correct the informalities. Applicant respectfully requests that the Examiner's objections to the specification and claims 6, 11, and 16 be withdrawn.

In the Office Action, claims 1 and 7 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, due to a typographical error, claims 1 and 7 referred to "the sacrificial dielectric layer." Applicant has amended claims 1 and 7 to recite "the second sacrificial dielectric layer." The claims have in no way been narrowed by virtue of these amendments and so these amendments should not be interpreted as narrowing the claimed invention for purposes of any determination under the doctrine of equivalents. Applicant respectfully requests that the Examiner's rejections be withdrawn.

In the Office Action, claims 1-22 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1-20 of U.S. Patent No. 6,355,555 in view of Boeck, et al. (U.S. Patent No. 5,880,018). Applicant notes that claims 1-20 and 41-42 are pending in present application and thus assume the Examiner intended to reject claims 1-20 and 41-42, and not claims 1-22, as indicated in the Office Action. In the interest of expediency, Applicant has included herein a terminal disclaimer and respectfully requests that the Examiner's rejection of claims 1-20 and 41-42 be withdrawn. However, it will be appreciated

that the filing of the terminal disclaimer to obviate the Examiner's rejection is not an admission of the propriety of the rejection. *Quad Environmental Technologies Corp. vs. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed Cir. 1991). See, e.g., MPEP §804.03.

For the aforementioned reasons, it is respectfully submitted that all claims pending in the present application are in condition for allowance. The Examiner is invited to contact the undersigned at (713) 934-4052 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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